



Rep. Natalie A. Manley

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LRB099 04484 HLH 34491 a

1 AMENDMENT TO HOUSE BILL 675

2 AMENDMENT NO. _____. Amend House Bill 675 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 302 and 701 as follows:

6 (35 ILCS 5/302) (from Ch. 120, par. 3-302)

7 Sec. 302. Compensation paid to nonresidents.

8 (a) In general. For taxable years beginning prior to
9 January 1, 2015, all ~~All~~ items of compensation paid in this
10 State (as determined under Section 304(a)(2)(B)) to an
11 individual who is a nonresident at the time of such payment and
12 all items of deduction directly allocable thereto, shall be
13 allocated to this State.

14 For taxable years beginning on or after January 1, 2015:

15 (1) all items of compensation of a nonresident
16 individual who is a member of a professional athletic team,

1 and all items of deduction directly allocable thereto,
2 shall be allocated to this State as determined under
3 Section 304(a) (2) (B) (iv); and

4 (2) the amount of all items of compensation of all
5 other nonresident individuals, and of all items of
6 deduction directly allocable thereto, allocated to this
7 State shall be the portion of the individual's total
8 compensation for services performed for his or her employer
9 during the taxable year which the number of working days
10 spent within this State performing services for the
11 employer in any manner during the taxable year bears to the
12 total number of working days spent both within and without
13 this State during the taxable year. For purposes of this
14 paragraph:

15 (A) A "working day" is any day on which the
16 employee performs duties on behalf of the employer.
17 Weekends, vacation days, sick days, and holidays
18 (whether or not paid) are not working days unless the
19 employee is required by the employer to perform some
20 duties on that day.

21 (B) A working day is spent in this State if:

22 (i) a greater amount of time is spent by the
23 employee in this State during that day performing
24 duties on behalf of the employer (other than
25 travelling) than is spent performing duties in any
26 other State; or

1 (ii) the only work performed by the employee on
2 behalf of the employer on that day is travelling to
3 a destination within this State, and the employee
4 arrives on that day.

5 (C) A working day is not spent in this State if the
6 only activity engaged in by the employee on behalf of
7 the employer in this State on that day is travelling
8 from or through this State to a destination outside
9 this State.

10 (b) Reciprocal exemption. The Director may enter into an
11 agreement with the taxing authorities of any state which
12 imposes a tax on or measured by income to provide that
13 compensation paid in such state to residents of this State
14 shall be exempt from such tax; in such case, any compensation
15 paid in this State to residents of such state shall not be
16 allocated to this State. All reciprocal agreements shall be
17 subject to the requirements of Section 2505-575 of the
18 Department of Revenue Law (20 ILCS 2505/2505-575).

19 (c) Cross references.

20 (1) For allocation of amounts received by nonresidents
21 from certain employee trusts, see Section 301(b)(2).

22 (2) For allocation of compensation by residents, see
23 Section 301(a).

24 (Source: P.A. 90-491, eff. 1-1-98; 91-239, eff. 1-1-00.)

25 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

1 Sec. 701. Requirement and Amount of Withholding.

2 (a) In General. Every employer maintaining an office or
3 transacting business within this State and required under the
4 provisions of the Internal Revenue Code to withhold a tax on:

5 (1) compensation allocated to this State under
6 subsection (a) of Section 302 ~~paid in this State (as~~
7 ~~determined under Section 304(a)(2)(B) to an individual;~~ or

8 (2) payments described in subsection (b) shall deduct
9 and withhold from such compensation for each payroll period
10 (as defined in Section 3401 of the Internal Revenue Code)
11 an amount equal to the amount by which such individual's
12 compensation exceeds the proportionate part of this
13 withholding exemption (computed as provided in Section
14 702) attributable to the payroll period for which such
15 compensation is payable multiplied by a percentage equal to
16 the percentage tax rate for individuals provided in
17 subsection (b) of Section 201.

18 (b) Payment to Residents. Any payment (including
19 compensation, but not including a payment from which
20 withholding is required under Section 710 of this Act) to a
21 resident by a payor maintaining an office or transacting
22 business within this State (including any agency, officer, or
23 employee of this State or of any political subdivision of this
24 State) and on which withholding of tax is required under the
25 provisions of the Internal Revenue Code shall be deemed to be
26 compensation paid in this State by an employer to an employee

1 for the purposes of Article 7 and Section 601(b)(1) to the
2 extent such payment is included in the recipient's base income
3 and not subjected to withholding by another state.
4 Notwithstanding any other provision to the contrary, no amount
5 shall be withheld from unemployment insurance benefit payments
6 made to an individual pursuant to the Unemployment Insurance
7 Act unless the individual has voluntarily elected the
8 withholding pursuant to rules promulgated by the Director of
9 Employment Security.

10 (c) Special Definitions. Withholding shall be considered
11 required under the provisions of the Internal Revenue Code to
12 the extent the Internal Revenue Code either requires
13 withholding or allows for voluntary withholding the payor and
14 recipient have entered into such a voluntary withholding
15 agreement. For the purposes of Article 7 and Section 1002(c)
16 the term "employer" includes any payor who is required to
17 withhold tax pursuant to this Section.

18 (d) Reciprocal Exemption. The Director may enter into an
19 agreement with the taxing authorities of any state which
20 imposes a tax on or measured by income to provide that
21 compensation paid in such state to residents of this State
22 shall be exempt from withholding of such tax; in such case, any
23 compensation paid in this State to residents of such state
24 shall be exempt from withholding. All reciprocal agreements
25 shall be subject to the requirements of Section 2505-575 of the
26 Department of Revenue Law (20 ILCS 2505/2505-575).

1 (e) Notwithstanding subsection (a)(2) of this Section, no
2 withholding is required on payments for which withholding is
3 required under Section 3405 or 3406 of the Internal Revenue
4 Code.

5 (Source: P.A. 97-507, eff. 8-23-11; 98-496, eff. 1-1-14.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."